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**UNITED STATES DISTRICT COURT**

**NORTHERN DISTRICT OF CALIFORNIA**

Case No. 3:22-cv-00990-JD

Hon. James Donato

**WELLS FARGO'S RESPONSE TO  
PLAINTIFFS' RENEWED MOTIONS FOR  
APPOINTMENT OF INTERIM LEAD  
COUNSEL**

Date: March 23, 2023

Time: 10:00 am

Location: Courtroom 11  
Phillip Burton Federal Building &  
United States Courthouse  
450 Golden Gate Avenue  
San Francisco, CA 94102

*IN RE WELLS FARGO MORTGAGE  
DISCRIMINATION LITIGATION*

1 As in its response<sup>1</sup> to the initial round of these motions, Wells Fargo takes no position on  
 2 who should be appointed interim lead counsel. Wells Fargo's counsel will work with civility and  
 3 professionalism with whomever the Court chooses. One aspect of the various proposals calls for a  
 4 response, however.<sup>2</sup>

5 Specifically, some submissions suggest a leadership structure inconsistent with this Court's  
 6 rejection of separate complaints for Black applicants and other minority applicants. The Dann  
 7 Group supports the appointment of Dennis Ellis, but that support is premised on the notion that  
 8 Mr. Ellis will perform the functions of interim lead counsel "concerning Black applicants, with the  
 9 agreement that the Dann Group will be responsible for focusing on the same with respect to the  
 10 non-black minority applicants." ECF No. 105 at 2. While Linda Friedman and Ben Crump's  
 11 motion to be appointed interim lead counsel hedges on the propriety of a "national origin subclass,"  
 12 it proposes that Amanda Williams and Abou Amara could lead such a subclass. ECF No. 106 at  
 13 15. That motion reiterates the benefits of consolidated discovery, but in doing so appears to  
 14 concede that appointing attorneys for a "national origin subclass" would not involve consolidated  
 15 discovery. *See id.*

16 The Court's January 18, 2023 Order re Consolidation and Interim Lead Counsel clearly  
 17 rejected Plaintiffs' counsel's initial proposal to have two complaints with two interim lead counsel  
 18 teams. ECF No. 102 at 2 (ordering one consolidated complaint). It also cautioned that multiple  
 19 committees or any similar structure was rarely appropriate. *Id.* at 6, ¶ 13(e). And barring an actual  
 20 conflict of interest between plaintiff groups, issues concerning potential subclasses were to be  
 21 addressed at class certification or other proceedings. *Id.* Accordingly, the Court ordered "one  
 22 \_\_\_\_\_

23 <sup>1</sup> For purposes of this response, "Wells Fargo" refers to all of the defendants named in the cases  
 24 consolidated into this one. That also includes Wells Fargo Home Mortgage, Inc., which was merged  
 into Wells Fargo Bank in 2004 and no longer exists as a separate legal entity.

25 <sup>2</sup> Wells Fargo also notes that two interim lead counsel submissions resulted in reply deadlines being  
 26 entered into the ECF system. *See* ECF No. 104 (replies due 2/27/2023); ECF No. 106 (replies due  
 27 3/6/2023). But the Court's January 18, 2023 Order re Consolidation and Interim Lead Counsel said  
 28 that, other than Wells Fargo, "[n]o other party may file an opposition without the Court's prior  
 approval." ECF No. 102 at 6. Three of the four submissions also set a hearing date of March 23,  
 2023, although the Court's Order did not do so. *See* ECF Nos. 104, 105, and 106.

1 amended, consolidated complaint” and that the cases be consolidated “for all pretrial proceedings.”  
 2 *Id.* at 3, ¶ 2. That order echoed the Court’s remarks at the October 28, 2022 hearing on the initial  
 3 interim-lead-counsel motions that the goal was “one complaint . . . one motion to dismiss, one set  
 4 of discovery, one class certification motion, one summary judgment motion.” ECF No. 97 at  
 5 30:11–14. Indeed, the Court invited the current round of interim lead counsel proposals precisely  
 6 because the previous submissions did not address who should be appointed to lead a single,  
 7 consolidated case. ECF No. 102 at 4, ¶ 12.

8 The proposals to have separate attorney groups for different subclasses have the potential  
 9 to undermine the Court’s Order, resulting in exactly the inefficiencies that consolidation was  
 10 intended to eliminate. We are concerned that, despite having a single consolidated complaint,  
 11 Wells Fargo may nonetheless be faced with duplicative, inconsistent, or competing discovery  
 12 requests and conferences over the scope of discovery. Whomever the Court appoints as interim  
 13 lead counsel can of course assign the work in whatever way seems best and also structure the  
 14 consolidated complaint and class definition according to their own strategic decisions. But any  
 15 decisions counsel makes in that regard should be consistent with the Court’s Order consolidating  
 16 the cases for all pretrial purposes—including motion practice and discovery—as well as the  
 17 Order’s billing guidelines. Wells Fargo asks that the Court simply appoint interim lead counsel  
 18 without incorporating the various proposals for separate or lieutenant lead counsel for putative  
 19 subclasses.

20 DATED: February 20, 2023

**MCGUIREWOODS LLP**

21  
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**CERTIFICATE OF SERVICE**

I hereby certify that on February 20, 2023, a copy of the foregoing pleading was filed electronically with the clerk of court via ECF, which will serve all counsel of record and served via First-Class Mail to any party not filing ECF, postage prepaid.

Dated: February 20, 2023

By: /s/ Ava Lias-Booker  
Ava Lias-Booker